

The 17th November, 1994

No. 14/13/87- 6 Lab/833.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Faridabad in respect of the dispute between the workman and the management of M/s Indographic Art and Machinery Co. (P) Ltd., 22, Ballabgarh *versus* Brij Lal:—

IN THE COURT OF SH. U. B. KHANDUJA, PRESIDING OFFICER, LABOUR COURT-II,
FARIDABAD

Reference No. 296/92

between

THE MANAGEMENT OF M/S INDOGRAPHIC ART MACHINERY CO. (P) LTD.,
22 MATHURA ROAD, BALLABGARH

versus

THE WORKMAN NAMELY SHRI BRIJ LAL S/O SHRI KALYAN SINGH, VILLAGE GHAR-
KHEDA, POST OFFICE ATALI, TEHSIL BALLABGARH.
DISTT. FARIDABAD

Present :

Sh. M. S. Nagar, AR, for the wrkman.

Sh. R. C. Sharma, AR, for the management.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act'), the Governor of Haryana referred the following dispute between the parties mentioned above, to this Court for adjudication,—*vide* Haryana Government, Endorsement No. 22704—9 dated 19th May, 1992 :—

Whether the termination of services of Sh. Brij Lal is legal & justified ? If not, to what relief, is he entitled to ?

2. The case of the workman is that he had been in the employment of the management as a Painting and Packing Supervisor for the last 23 years and had never given any opportunity of complaint. His last drawn wages were Rs. 1400/- p.m. His services were governed by the Certified Standings of the company. The management in gross violation of the provisions of the certified standing orders and rules of natural justice terminated his service,—*vide* letter dated 2nd January, 1992 without assigning any reason and justification. His services could not be terminated without following the provisions of section 25-F and 25-N of the Act. He was neither paid retrenchment benefit envisaged under section 25-F of the Act nor any permission to retrench him from service was taken from the Govt. required under section 25-N of the Act. The impugned order terminating his services is thus, illegal and void. He is entitled to be reinstated into service with full back wages and continuity in service.

3. The management submitted written statement dated 11th November, 1992 taking two preliminary objections. Firstly that the workman had filed a civil suit claiming the same relief and so he is estopped from perusing and contesting the case. Secondly the company stood completely ruined and no manufacturing activity had been carried on since January 1992 and as such there existed no post on which the workman could be re-appointed/reinstated. It was further mentioned that the workman was not governed by Certified Standings Orders of the company and was only governed by the contract of service. His services were terminated as per conditions embodied in his appointment letter and so the impugned action of the management is legal and valid.

4. The workman submitted rejoinder re-asserting the previous averments and denying the averments of the management.

5. On the pleadings of the parties the following issue was framed :—

(1) Whether the termination of services of Sh. Brij Lal is legal & justified ? If not, to what relief is he entitled to ? (Ast per terms of reference).

6. Both the sides have led evidence. [it was recorded in the case Reference No. 290/92, J. P. Sharma *versus* Indographic Art Machinery Co. (P) Ltd.].

7. I have heard the authorised representatives of both the sides and have also gone through the evidence on record. My findings on the aforesaid issues are as follows :—

Issue No 1 :

8. It has been submitted on behalf of the management that the workman admitted in rejoinder that he had filed a civil suit which was dismissed as withdrawn thus, he was estopped from raising the dispute under the Act having availed of alternative remedy. In reply, it has been submitted that the claimant had filed the civil suit for restraining the management from disposing/alienating the property but the same was withdrawn as the management had alienated their properties during the pendency of the suit. This plea of the workman has to prevail as MW-1 Yasin Khan admitted in his statement made in the court that the workman had filed the civil suit restraining the management from disposing/alienating properties. The workman had not filed the suit claiming the relief for his reinstatement and as such it has no effect on the present proceedings. Consequently, the objection taken on behalf of the management is not tenable.

9. It has next been contended on behalf of the management that the services of the workman were terminated as per terms and conditions of his appointment and as such the impugned action is legal and valid. In reply, it has been submitted that it is not disputed that the workman had rendered service for a period of about 23 years prior to the date of termination of his services. It is also not disputed that the workman was a workman defined under section 2(S) of the Act and as such he was governed by the provision of the Act. In this situation the services of the workman could not be terminated simply as per terms and conditions of his appointment. His services could be terminated by following the provisions of section 25-F of the Act which were not complied with, thus, the impugned action of the management is illegal and unjustified. There is merit in the submission made on behalf of the workman because the terms and conditions of appointment letter could not have overriding effect to the provisions of the Act. So the contention raised on behalf of the management cannot be accepted.

10. Faced with the aforesaid position Sh. R. C. Sharma authorised representative of the management urged that it is clear from the impugned order that the workman was asked to collect his dues from the Account Section between 10 a.m. to 4 p.m. after submitting necessary clearance. The workman would have been paid the retrenchment compensation if he had gone to the Account Section as per direction of the management. Thus, it stands proved that the management had complied with the provision of section 25-F of the Act. To support this plea a reference has been made to the case of Hari Singh *versus* Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak and another 1993 LLR 385 in which the workman had remained absent and was treated to have abandoned the job. Since the workman was not present, notice was sent to him by post at his local address and he was asked to contact the office of the company to collect his dues. In these circumstances, it was held that it meant nothing except that the workman was entitled to collect his dues as contemplated under section 25-F of the Act. It was further held that such an offer amounts to tendering the amount to the workman along with retrenchment notice especially when the office of the company is situated at the place of the residence of the workman.

11. In the case referred to above, the management had clearly advised the workman to contact the office of the company during the working days from 10 a.m. to 4 p.m. for the collection of his dues. In the instant case, the management advised the workman to collect his dues if any from the Account Section. The words 'if any' used in this letter clearly indicate that the management did not want to pay retrenchment benefit to the workman envisaged under section 20-F of the Act. That being so, the law laid down in that case cannot be applied on the facts of the instant case and the contention raised by the management is rejected.

12. It has been next urged on behalf of the management that the reference made by the Govt. itself to the court is illegal as the dispute regarding retrenchment is not covered in the second Schedule and it is covered in the Third Schedule. The reference should have been made to the Industrial Tribunal. Hence the workman is not entitled to any relief. To support this plea a reference has been made to the case between U.P. Electric Supply Company Ltd., and R. K. Shukla 1960-70 Supreme Court case page 889.

13. The contention raised on behalf of the management cannot prevail as the proviso to section 10(1)(d) of the Act itself states that where the dispute relates to any matter specified in the Third Schedule and is not likely to effect more than 100 workman, the appropriate Govt. may if it so thinks fit, make the reference to the Labour Court under clause (c).

14. It is concluded that the termination of services of the workman by the management without complying with the provision of Section 25-F of the Act is illegal and unjustified. Consequently, the workman is entitled to reinstatement into service with continuity in service and full back wages. It is however, not disputed that the factory was closed in July 1992. That being so, the workman shall be deemed to have retrenched on 31st July, 1992 on the closure of the factory. He be thus, given all benefits accruing to him on this count till that date. The award is passed accordingly.

The 27th October, 1994.

U. B. KHANDUJA,

Presiding Officer,
Labour Court-II,
Faridabad.

Endorsement No. 3149 dated 31st October, 1994.

A copy with three spare copies is forwarded to the Financial Commissioner & Secretary to the Govt. Haryana, Labour Department, Chandigarh.

U. B. KHANDUJA,
Presiding Officer,
Labour Court-II,
Faridabad.

The 25th October, 1994

No. 14/13/87-6Lab./766.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Faridabad in respect of the dispute between the workman and the management of M/s Balarpur Industries Ltd., Faridabad *versus* Jai Singh.

BEFORE SHRI N. L. PRUTHI, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, FARIDABAD

Reference No. 156 of 91

IN THE MATTER OF INDUSTRIAL DISPUTE

between

SHRI JAI SINGH C/O SHRI SITA RAM, C/O B. M. S. VISHWAKARMA BHAWAN, NEELAM BALA ROAD, FARIDABAD. *Claimant.*

AND

M/S BALARPUR INDUSTRIES LTD., UNIT B. C. R., PLOT NO. 66, N. I. T., FARIDABAD.

Management.

Present :

Shri Gope Mashih, Authorised Representative for the Workman.

Shri S. S. Saini, Authorised Representative for the Management.

AWARD

Under the provisions of Section 10 (1) (c) of Industrial Disputes Act, 1947, the Government of Haryana have,—vide Endorsement No. OV/FD/18794—99, dated the 30th May, 1991, referred the following dispute between the parties above named for adjudication:—

“Whether the termination of services of Shri Jai Singh is legal and justified. If not, to what relief he is entitled ?”

2. The case of the workman is that he had been working as Helper with the Management of M/s B. C. R. Ltd., which name was later on changed to Balarpur Industries Ltd., Unit B. C. R. since 14th January, 1984 and was in receipt of monthly wages of Rs. 815/30. The Management had, without giving him any notice or any other monetary compensation, terminated his services on 26th October, 1990 and that when the Management had refused to take him back into service during the course of proceedings before the Labour Inspector, the latter had advised him to file demand notice. It has been alleged by the workman that the Management got annoyed with him over the general demand which the workman and his other co-workers had filed for facilities to which they were legally entitled. It is on these facts that the workman has claimed his re-instatement with continuity of service and full back wages.

3. The case of the Management, on the other hand, is that the claimant used to be employed for casual work on day to day casual employment basis. His mode of payment was per day at daily wage

rates. According to Management, the employment of the claimant was some times for 20 days in a month, and, therefore, the nature of the employment of the claimant does not fall within the definition of continuous service and the non availability of work for such persons does not amount to termination of services as alleged by the claimant. So, on this account, the reference itself is bad in law. It has also been contended by the Management that when the workman had not acquired the status of a regular employee and his employment used to start in the morning and end on the same evening he is not entitled to any notice pay or compensation or any other relief.

4. In the rejoinder pleas taken in the claim statement have been reiterated while those in the written statement controverted.

5. On the pleadings of the parties following issue was framed on the 25th November, 1991:—

(1) As per reference.

6. I have heard Authorised Representative for the parties and perused facts on record. My findings on the issue framed are as under:—

Issue No. 1 :

7. M. L. Lamba, Assistant Manager examined as MW-1, stated that claimant was employed in the year, 1984 as "Casual Badli" worker and his job was of a casual nature and was paid wages at daily wages fixed by the State Government from time to time. The witness placed on record Ex. M 1 statement showing the number of days, the claimant had worked, month wise from the year, 1984 to 1990 to show that the claimant had never worked for 240 days in any year.

8. Workman Jai Singh examined as WW-1 re-emphasized his stand as is contained in claim statement and said it also that an employee of the contractor is now working in his place. He also stated that four of the workmen whose services were also terminated along with him have since been taken back in the service. In his cross-examination, the workman expressed his inability to tell as to for how many days he had rendered service in each of the year from 1984 to 1990. He also admitted that he was not possessed of proof to show that he had worked for more than 240 days in any year or that he had been giving leave applications for the days for which he did not come for work.

9. Ram Gaya Yadav examined as WW-2 who stated that claimant Jai Singh used to work in Pulp Section along with him in fact supported the stand of the Management by admitting in his cross-examination that the workman was taken on duty and marked present only on the day there was work available for him.

10. Ex. M-1 which is a record of attendance of the workman from 14th January, 1984 to 25th October, 1990 provides a clincher of the controversy. According to it, the claimant had worked for 194-6/8 days in 1984, for 154-3/8 days in 1985, for 143-3/8 days in 1986, for 172-5/8 days in 1987, for 165 7/8 days in 1988, for 187 2/8 days in 1989 and for 151 1/8 days in the year, 1990. The number of working days of the claimant during twelve months preceding his cessation of work i.e. from November, 1989 to October, 1990 come to 187-1/8. Obviously the number of days for which the claimant had worked fell much short of 240 days. When the workman has neither adduced any evidence nor given an application for calling attendance/wage register coupled with the admission that he did not know as to for how many days he had worked in each year, there is no alternative except to accept the stand of the Management that the workman had not completed 240 days of service in a year. So, when such is the situation, the provisions of Section 25 (B) (2) of I. D. Act would not apply and for that matter he is not entitled to any retrenchment compensation under Section 25F of the Act. It was so held in **G. Yadi Raddy versus Brooke Bond India Ltd., Ghatesar** and another 1994 FLR (69) 25. The authority relied upon by the workman viz., **Ram Dass versus National Seeds Corporation Ltd. and another** 1992 LLR 279 has no application to the facts of this case because the cited case related to non regularisation of services of the employees by keeping them either on daily wages or on a consolidated wages for a considerable long period. Such a policy, had, in that case, been declared as unreasonable.

11. So, in the context of legal and factual position discussed above, it is held that the termination of services of Jai Singh was legal and justified and for that matter he is not entitled to any relief. An award is passed accordingly.

N. L. PRUTHI ,

The 25th September, 1994.

Presiding Officer,
Industrial Tribunal-cum-
Labour Court-J, Faridabad.

Endorsement No. 3557, dated the 27th September, 1994

A copy with, three spare copies, is forwarded to the Commissioner and Secretary to Government Haryana, Labour Department, Chandigarh.

N. L. PRUTHI,

Presiding Officer,
Industrial Tribunal-cum-
Labour Court-I, Faridabad.

The 15th November, 1994

No. 14/13/87-6Lab./782.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala in respect of the dispute between the workman and the management of M/s Microne Manufacturer & Co., A/City versus Nand Kishore.

IN THE COURT OF SHRI S. R. BANSAL, (ADDITIONAL DISTRICT AND SESSIONS JUDGE) PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 91 of 1994

between

WORKMAN SHRI NAND KISHORE, SON OF SHRI RAM GOPAL, TOPKHANA
PRADE, PLOT NO. 265, AMBALA CANTT.

and

THE MANAGEMENT M/S MICRONE MANUFACTURER & COMPANY, RAILWAY
ROAD, AMBALA CANTT.

Present:

Workman in person.

MR, Shri G. K. Gupta.

AWARD

The Governor of Haryana has made the following reference to this court for adjudication :—

Whether the termination of the services of Shri Nand Kishore is valid and justified? If not so, to what relief is he entitled?

The parties appeared and made the following statements in the court :—

व्यान श्री नन्द किशोर, श्रमिक आन एस. ए.

मेरा प्रबन्धकों से आपसी समझौता हो गया है और यह रिक्रेंस मैं आगे न चलाना चाहता हूँ। शहादत बन्द करता हूँ। मुझे प्रबन्धकों ने काम पर वापिस ले लिया है। इस लिए इस रिक्रेंस का निपटारा कर दिया जावे।

व्यान श्री जी. के. गुप्ता, प्रो. आन एस. ए.

उपरोक्त व्यान सुन लिया है जो कि सही है। इस तरह इस केस का निपटारा कर दिया जाये।

In view of the above statements made the reference stands answered against the workman. The parties shall be bound by the statements made in the court which shall form part of this award.

S. R. BANSAL,

The 11th October, 1994.

Additional District and Sessions Judge,
Presiding Officer,
Labour Court, Ambala.

Endorsement No. 1651, dated the 12th October, 1994

Forwarded (four copies), to the Financial Commissioner and Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

S. R. BANSAL,

Additional District and Sessions Judge,
Presiding Officer,
Labour Court, Ambala.

No. 14/13/87-6Lab./785.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala in respect of the dispute between the workman and the management of M/s C.D.P.O. Kalyat *versus* Krishna Devi.

IN THE COURT OF SHRI S. R. BANSAL (ADDITIONAL DISTRICT AND SESSIONS JUDGE),
PRESIDING OFFICER, LABOUR COURT, AMBALA.

Reference No. 15 of 1994

WORKMAN SMT. KRISHNA DEVI, SWEEPER, WIFE OF SHRI MITHU RAM, RESIDENT
OF KAYALMUNI ROAD, WARD NO. 11, VILLAGE AND POST OFFICE KALYAT AND
THE MANAGEMENT C.D.P.O. KALYAT.

Present :

Workman in person.

MR, Shri Jagmal Singh, ADA

AWARD

The Hon'ble Governor of Haryana has made the following reference to this court for adjudication :—

“Whether the termination of the services of Smt. Krishna is valid and justified ? If not so, to what relief is he entitled?”

Today the case was fixed for filing of written statement. The parties have made the following statements in the court :—

ब्यान श्रीमती कृष्णा देवी, पत्नी श्री मिट्टू राम, उमर 30 साल, गांव व डा० कलयात, आन एस० ए०

ब्यान किया कि मैंने कोई शहादत न देनी है । मेरी ओर से शहादत बन्द है ।

ब्यान श्री जगमाल सिंह, ए०डी०ए०

ब्यान वाला सुन लिया है । इसके अनुसार फैसला कर दिया जाये ।

It was for the workman to prove the termination from his services was illegal. Since there is no evidence on the file to substantiate the allegations of the workman. I order accordingly.

S. R. BANSAL,

The 4th October, 1994.

Addl. District & Session Judge,
Presiding Officer, Labour Court, Ambala.

KRISHNA DEVI

Versus

C.D.P.O. KALYAT

Endorsement No. 1629, dated 6th October, 1994

Forwarded (four copies), to the Financial Commissioner and Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. R. BANSAL,

Addl. District & Sessions Judge,
Presiding Officer, Labour Court, Ambala.

The 13th November, 1994

No. 14/13/87-6Lab./788.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala in respect of the dispute between the workman and the management of M/s The Shahabad Co-op. Sugar Mill Ltd., Shahabad Markanda *versus* Ram to Agia.

IN THE COURT OF SHRI S. R. BANSAL, (ADDL. DISTT. & SESSIONS JUDGE),
PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 220 of 1988

WORKMAN RAM AGIA, S/O SHRI PHULANI C/O COMRADE BANTA RAM,
MAJDOOR LABOUR OFFICE, COMMUNIST PARTY SHAHABAD

and

THE MANAGEMENT OF THE SHAHABAD CO-OPERATIVE SUGAR MILL LTD.,
SHAHABAD MARKANDA.

Present :

MR, Shri J. P. Singh.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (for short called as the 'Act'), the Governor of Haryana referred the following dispute between the workman Ram Agia and the management of the Shahabad Co-operative Sugar Mill Ltd., Shahabad Markanda to this Court for adjudication,—*vide* Haryana Government notification No. 19971--75, dated 6th May, 1988 :—

Whether the termination of services of Shri Ram Agia, is valid and justified ? If not so, to what relief is he entitled ?

The workman served a demand notice dated 16th January, 1988 under section 2 (A) of the Act upon the management alleging there in that the termination of his services is illegal and against the mandatory provisions of section 25 (F) of the Act. He, therefore, demanded his reinstatement with continuity of service and back period wages. The conciliation proceedings were taken up and the same having failed, the appropriate Government made the above mentioned reference in this court for adjudication.

On receipt of the reference notices were issued to the workman as well as well to the management. The workman appeared and stated this demand notice may be treated as claim statement. The management appeared and filed the written statement to the claim statement. Workman filed replication controverting the allegations of the management in the written statement filed. On the pleadings of the parties the following points in issue were laid down for decision :—

- (1) Whether the impugned termination of the w/m is invalid ? OPW
- (2) Whether the claim statement is not tenable as alleged in preliminary objection of the W/S ? OPM
- (3) Relief.

I have heard the Ld. representatives of the parties. My issuewise findings are as under :—

Issues No. 1 & 2 :

Both these issues are inter linked and they are taken up together for decision.

Workman appeared as WW-1 and stated that he joined the management during the year 1985-86 and worked there continuously for two seasons and his services were terminated in the fourth crushing season. He also stated that his juniors were retained in service and therefore he demanded his reinstatement with continuity of service and back period wages. On the other hand, the management produced MW-1 Shri Vishav Nath, Record Keeper-cum-Legal Assistant who stated that the workman joined the management for the first time 15th January 1986 as daily rated worker and worked upto 3rd March, 1986. He also stated that since the season was over the workman alongwith other was paid off and was again appointed on 19th November, 1985 and after the crushing season he was again paid off. He further stated that after the crushing season only engineering wing of the mill remains in the working order. The witness produced EX-M-1 to EX-M-3 copies of the muster-rolls. The perusal of these documents shows that the workman worked for a total period of 178 days during the crushing season 1986-87. He, therefore, did not complete 240 days in a preceding 12 months of his termination. That being so that the workman is entitled to protection of section 25 (F) of the Act. As such the termination of services of the workman cannot be held to be illegal and invalid. Since the workman has not completed 240 days in a calendar year his claim statement is not maintainable. The finding on both these issues is, therefore, returned against the workman and in favour of the management.

Relief

In the end, it is held that the workman is not entitled to any relief.

The reference shall stand answered accordingly.

S. R. BANSAL,

The 4th October, 1994.

Addl. Distt. & Sessions Judge,
Presiding Officer, Labour Court,
Ambala.

Endorsement No. 1632, dated the 6th October, 1994.

Forwarded (four copies), to the Financial Commissioner & Secretary to Government Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. R. BANSAL,

Addl. Distt. & Sessions Judge,
Presiding Officer, Labour Court,
Ambala.

The 15th November, 1994

No. 14/13/87-6 Lab./802.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s The Civil Surgeon, Jind *versus* Thambu Ram.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Ref. No. 193 of 94

between

SHRI THAMBU RAM C/O SHRI RAM PAL SINGH, ADVOCATE, JIND, WORKMAN

and

THE MANAGEMENT OF M/S THE CIVIL SURGEON, JIND.

Present :

None for the parties.

AWARD

In exercise of the powers conferred by sub-clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 the Governor of Haryana has referred the following dispute between the parties named above to this court for adjudication,—*vide* Labour Department Endorsement No. ID/Hisar/31280—284, dated 20th August, 1994 :—

Whether the termination of services of Sh. Thambu Ram is justified and in order? If not, to what relief, he is entitled?

2. The case was called several times, but no one appeared on behalf of the parties. Hence the reference petition is dismissed in default, however, the parties are left to bear their own costs.

P. L. KHANDUJA,

The 16th September, 1994.

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

Endorsement No. 193-94/2458, dated the 30th September, 1994.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

No. 14/13/87-Lab./804.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Sanjivan Research Laboratories, Badmalik Rai, Sonapat *versus* Kamlesh.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Reference No. 41 of 1991

between

SHRIMATI KAMLESH, W/O SHRI JEET RAM C/O CHEMICAL WORKERS UNION
(CITU), SONEPAT

.. Workwoman

and

THE MANAGEMENT OF M/S SANJIVAN RESEARCH LABORATORIES, G. T.
ROAD, BADMALIK RAI, SONEPAT

Present :

Shri Hawa Singh, authorised representative for the workman.

Shri Rajbir Singh, authorised representative for the management.

AWARD

In exercise of powers conferred by sub-clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above to this Court for adjudication,—*vide* Labour Department Endorsement No. SOV/ID/Soni/8-91/7170—75, dated 7th March, 1991 :—

Whether the termination of services of Shrimati Kamlesh is justified and in order? If not, to what relief she is entitled?

2. The workman and the management were summoned. The workman appeared and filed her claim statement that she was posted as labourer on pay of Rs. 540 per month. The work and conduct of the applicant had been satisfactory with the respondent and give no complaint etc. The respondent used to pay the applicant the less pay that what is fixed by the Haryana Government. The respondent on 31st July, 1990, without intimating any ground terminated the services of the applicant. Hence this claim petition was filed by the workman that she be reinstated with continuity of service and full back wages.

3. The respondent appeared and filed the written statement that the petitioner worked with the respondent only for ninety days. The detail of which is as under :—

March, 1989 25 days.

April, 1989 10 days.

May, 1989 16 days.

June, 1989 15 days.

July, 1989 13 days.

July, 1990 11 days.

4. The petitioner was engaged on casual basis and her services were not required further and her work was not satisfactory so the services of the petitioner were terminated legally. However when she joined in March, 1989 her rate of wages was 24 per day. The petitioner was never given less wages than which was prescribed by the Government of Haryana or minimum wages and hence the petition be dismissed.

5. The replication was filed. On the pleadings of the parties, the following issues were framed :—

1. As per terms of reference ?

2. Relief.

6. My findings on the above issues with reasons thereof are as under :—

Issue No. 1 :

7. The workman has come into witness box as WW-1. The management has examined Shri Bhagat Ram as MW-1, the evidence thereafter was closed.

8. The only question involved in this case is whether the workman had worked for more than 240 days in a year or not as alleged by the workman or she had worked for less than 240 days as alleged by the management. There is no documentary evidence produced by the workman. The management has examined one witness and produced photostatic copies of attendance register which are Ex. M-1 to Ex. M-29.

9. It is proved from Ex. M-1 that Kamlesh the workman had worked for about 25 days in the month of March, 1989, she worked for about 10 days in the month of April, 1989, she worked for about 16 days in the month of May, 1989, she worked for about 15 days in the month of June, 1989, she worked for about 13 days in the month of July, 1989 and she worked for about 11 days in the month of July, 1990.

10. However the learned authorised representative for the workman made submission that her E.S.I. Card was prepared which is proved from the evidence. It is presumed that she had worked for more than 240 days in a year in the respondent factory, which is not authentic argument.

11. From the evidence it is proved that the applicant had not worked for 240 days and if she is not worked for 240 days. She can not claim the benefits of Section 25-F of the I. D. Act. For which Reliance was placed on the Punjab State Co-op. Supplies and Marketing Federation Ltd., Chandigarh Versus Shri Kartar Singh and Anr. cited in 1994 LLR, 209, holding that unless a workman proves that he has worked under the management for 240 days he is not entitled to any relief under this provisions. Without discussing any thing more when the workman has not proved to have worked for 240 days she is not entitled to any relief under the I.D. Act or Section 25-F of the I. D. Act and hence I decide this issue against the workman.

Issue No. 2 (Relief) :

12. In view of my findings on the above issues I dismiss the reference petition. The reference is answered and returned accordingly. However, the parties are left to bear their own costs.

The 28th September, 1994.

P. L. KHANDUJA,
Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

Endorsement No. Ref 41-91/2452. dated the 30th September, 1994.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh.

P. L. KHANDUJA,
Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

No. 14/13/87-6Lab./805.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. Duli Chand Gupta, Printing Press, Gur Mandi, Sonapat *versus* Ranjit Singh.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Reference No. 820 of 1992

between

SHRI RANJIT SINGH C/O SHRI HAWAS SINGH, 2/216, CITU OFFICE,
KATH MANDI, SONEPAT

.. *Workman*

and

THE MANAGEMENT OF M/S DULI CHAND GUPTA, PRINTING
PRESS, GUR MANDI, NEAR STATE BANK OF INDIA, SONEPAT

Present :

Shri Hawa Singh, authorised representative for the workman.

Shri Rajbir Singh, authorised representative for the management.

AWARD

In exercise of powers conferred by sub-clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties named above to this Court for adjudication,—*vide* Labour Department Endst. No. S.O.V./1/Sonepat/75-92/45026—31, dated 22nd September, 1992 :—

Whether the termination of services of Shri Ranjit Singh, is justified and in order ? If not, to what relief he is entitled ?

2. The workman has made statement recorded separately that he has settled his dispute with the management. In view of his statement I dismiss the reference as settled, with no orders as to cost.

P. L. KHANDUJA,

The 27th September, 1994.

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

Endorsement No. Ref. 820—92/2453, dated the 30th September, 1994.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh.

P. L. KHANDUJA,
Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.